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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, DC 20202

POLICY DIRECTIVE
RSA-PD-97-04
RSM-2035
DATE: August 19, 1997

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES (GENERAL)
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)
STATE REHABILITATION ADVISORY COUNCILS
CLIENT ASSISTANCE PROGRAMS
REGIONAL REHABILITATION CONTINUING EDUCATION
PROGRAMS
RSA SENIOR MANAGEMENT TEAM

SUBJECT: Employment Goal for an Individual with a Disability

BACKGROUND: The purpose of this policy directive is to formally rescind prior Rehabilitation Services Administration (RSA) issuance 1505-PQ-100-A regarding "suitable employment" and to describe the standard for determining an employment goal for an individual with a disability receiving services under the State Vocational Rehabilitation (VR) Services Program.

The purpose of Title I of the Rehabilitation Act of 1973, as amended (the Act), which authorizes the State VR Services Program, is "to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment." (§ 100(a)(2))

The Act does not define the term "gainful employment", but uses the term "employment objective" to describe the specific planned employment goal identified in the Individualized Written Rehabilitation Program (IWRP) for an individual with a disability who is eligible under the State VR Services program. Specifically, the Act requires that the IWRP be designed to enable the individual to achieve an employment objective that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, and

capabilities (§ 102(b)(1)(B)(i)). Other provisions of the Act, as well as the Federal regulations implementing Title I of the Act, use the term "vocational goal" to refer to the planned employment goal for an eligible individual under the State VR Services Program (e.g., § 100(a)(3)(C) of the Act; Federal regulations at 34 CFR § 361.46(a)(1)). For purposes of this Policy Directive, the terms "employment objective", "vocational goal", and "employment goal" are considered synonymous and are used interchangeably.

Formal Rescission of Policy Statement on "Suitable Employment"

In 1980, the Acting Deputy Commissioner of RSA issued guidance (1505-PQ-100-A) to RSA Regional Offices that identified "suitable employment" as the standard for determining an appropriate vocational goal for an eligible individual under the State VR Services Program. In both that document, and in a preceding RSA guidance document (1505-PQ-100, issued in 1978), "suitable employment" was described as "reasonable good entry level work an individual can satisfactorily perform."

Subsequently, the Rehabilitation Act Amendments of 1992 (1992 Amendments) revised the standard for determining an employment goal for an individual with a disability receiving services under the State VR Services Program. The 1992 Amendments require that the employment objective identified in an eligible individual's IWRP be consistent with the individual's strengths, resources, priorities, concerns, abilities, and capabilities. Because guidance document 1505-PQ-100-A is more limited than this standard, it has been superseded by the 1992 Amendments and is hereby rescinded. Guidance document 1505-PQ-100 is also rescinded to the extent that it identifies "suitable employment" as the appropriate standard for determining a vocational goal for an eligible individual under the State VR Services program.

Establishing an Employment Objective under an IWRP

The State VR Services program is designed to assist individuals to obtain employment that is consistent with their strengths, resources, priorities, concerns, abilities, and capabilities (also referred to in this document as the "individual's primary employment factors"). Designated State Units (DSUs) conduct an individualized assessment of the VR needs of each eligible individual to assist the individual in establishing in the IWRP an appropriate vocational goal that is consistent with this standard (§ 7(22); § 102(b)(1)(A) and (b)(1)(B)(ii)).

Given the emphasis that the Act places on informed choice, DSUs must also ensure that the identified employment objective reflects the individual's interests and informed choice to the extent that those factors are consistent

with the individual's strengths, resources, priorities, concerns, abilities, and capabilities. In other words, the employment objective identified in an individual's IWRP should reflect the individual's informed choice if the individual is not currently employed consistent with his or her primary employment factors, the individual possesses the strengths, resources, priorities, concerns, abilities, and capabilities needed for the employment goal, and such employment is available under current labor market conditions.

In many instances, DSUs should be able to determine whether an individual's interests and informed choice are consistent with his or her primary employment factors during the comprehensive assessment of vocational rehabilitation needs. In determining whether the individual possesses the strengths, resources, priorities, concerns, abilities, and capabilities needed to perform the desired employment goal, the DSU may seek to acquire performance-based information. Performance-based information may be sought during the comprehensive assessment (e.g., by conducting situational assessments of the individual's performance in real work settings) or by establishing discrete short-term objectives in the IWRP (e.g., enrolling the individual in a training program for a one-semester trial period or initially placing the individual in a work setting with necessary supports on a trial-basis). It should be noted that some DSUs have successfully accommodated individual choice through these and other strategies even in situations in which it initially appeared that the individual was incapable of performing the chosen goal.

Although it is permissible to consider local labor market conditions (i.e., job availability in the community) in determining an individual's employment goal, local labor market factors cannot by themselves be determinative of whether the individual's employment goal is appropriate. The fact that the local market for the individual's desired employment goal (which is consistent with the individual's primary employment factors) may be limited should not affect the individual's pursuit of that goal through the provision of VR services if the individual is willing to relocate to a market in which the particular job is available. On the other hand, if there is a limited local market for the individual's desired goal and the individual is unwilling to relocate, then local labor market conditions become a relevant factor in identifying employment options.

The cost or the extent of VR services that an eligible individual may need to achieve a particular employment goal should not be considered in identifying the goal in the individual's IWRP. For example, the fact that an employment objective may require an advanced degree, whereas another may only require job retraining or placement assistance, should not affect the determination of an employment objective that is appropriate for the particular eligible

individual. Once the employment goal is identified, however, cost becomes a relevant factor in determining an appropriate, cost efficient means of providing needed VR services. In this regard, DSUs are authorized to employ cost efficiency strategies that are consistent with federal law, such as financial needs tests, and also are obligated to locate available comparable services and benefits for certain VR services (34 CFR §361.53-361.54).

Finally, entry-level employment is an appropriate employment goal if the eligible individual is only capable of performing entry-level work or if the individual chooses an entry-level job as his or her employment goal.

Career Advancement and Upward Mobility under the State VR Services Program

The guidance provided through this Policy Directive is intended to correct the misperception that achievement of an employment goal under Title I of the Act can be equated with becoming employed at any job. As indicated above, the State VR Services program is not intended solely to place individuals with disabilities in entry-level jobs, but rather to assist eligible individuals to obtain employment that is appropriate given their unique strengths, resources, priorities, concerns, abilities, and capabilities. The extent to which State units should assist eligible individuals to advance in their careers through the provision of VR services depends upon whether the individual has achieved employment that is consistent with this standard.

The provision of VR services to an eligible individual who is currently employed, but whose job is not consistent with the individual's strengths, resources, priorities, concerns, abilities, and capabilities, must assist that individual to obtain employment consistent with the individual's primary employment factors and informed choice. Under such circumstances, VR services would be provided for "career advancement" or "upward mobility" purposes. Similarly, post-employment services are also available to assist eligible individuals who have already become employed to advance in employment (§103(a)(2)).

POLICY

STATEMENT:

The employment goal for an individual with a disability receiving services under the State VR Services Program (authorized by Title I of the Act) must be based, primarily, on the individual's strengths, resources, priorities, concerns, abilities, and capabilities. The employment goal also must reflect the individual's interests and informed choice to the extent that those factors are consistent with the individual's strengths, resources, priorities, concerns, abilities, and capabilities. Factors such as the local economy or local labor conditions (i.e., job availability in the community) are external factors that may be considered, but cannot by themselves be determinative of whether the

employment goal is appropriate. These considerations apply to the development of employment goals for both individuals who are not currently employed and individuals who are seeking to advance in their present careers.

CITATIONS

IN LAW: Sections 2(b)(1); 7(22); 12(e)(2)(A) and (B); 100(a)(1)(F); 100(a)(2); 100(a)(3)(A) and (C); 101(a)(29); 102(a)(1); 102(b)(1)(B)(i) and (ii); and 103(a)(2) of the Rehabilitation Act of 1973, as amended.

EFFECTIVE

DATE: Upon Issuance

EXPIRATION

DATE: None

INQUIRIES: RSA Regional Commissioners

Fredric K. Schroeder
Commissioner

CC: CSAVR
NAPAS
RSA Regional Offices
(Regions II, IV, V, VIII, and X)